



### **III. PARTIES**

3. Plaintiff is a natural person residing in the County of St. Charles, State of Missouri.

4. Defendant ACB American, Inc. (hereinafter referred to as ACB) is believed to be a Kentucky corporation operating from an address at 4351 Winston Avenue, Covington, Kentucky 41015, and doing business in the State of Missouri. Upon information and belief, ACB, has no registered agent in the State of Missouri.

5. ACB is subject to the jurisdiction and venue of this Court.

6. ACB may be served by personal or substitute service pursuant to the Federal Rules of Civil Procedure and, as applicable, the laws of the State of Missouri on an authorized agent at its principle place of business, to wit : 4351 Winston Avenue, Covington, Kentucky 41015.

### **FACTUAL ALLEGATIONS**

7. ACB uses telephone communications in its business.

8. The principle purpose of ACB's business is the collection of debts.

9. ACB regularly collects or attempts to collect debts owed or due, or asserted to be owed or due, another.

10. ACB is a debt collector subject to the provisions of the Fair Debt Collection Practices Act.

11. In the course of attempting to collect a debt allegedly due from Plaintiff to another business not a party to this litigation, ACB communicated with Plaintiff in a manner which violated the Federal Fair Debt Collection Practices Act.

12. In the time spanning from January 1, 2009 through February 28, 2009, ACB left a series of voice messages on Plaintiff's cell phone voice mail box.

13. In these telephone messages, ACB failed to give meaningful disclosure of its identity.

14. In these telephone messages, ACB did not state that the communication was from a debt collector.

15. In these telephone messages, ACB did not state that the communication was an attempt to collect a debt.

16. Defendant's communications violate the Fair Debt Collection Practices Act.

17. Plaintiff has complied with all conditions precedent to bring this action.

#### **VIOLATIONS OF THE FDCPA**

18. Plaintiff incorporates herein by reference each and every prior allegation and fact as though fully restated and re-alleged.

19. Defendant's actions violated the FDCPA. The violations include, but are not limited to, the following:

(a) Defendant violated 15 U.S.C. § 1692e(11) when it left voice messages on Plaintiff's cell phone voice mail which failed to indicate that the communications were from a debt collector;

(b) Defendant violated 15 U.S.C. § 1692e(11) when it left voice messages on Plaintiff's cell phone voice mail which failed to disclose that the communication was being made in an effort to collect on a debt;

(c) Defendant's actions violated 15 U.S.C. § 1692d(6) when it left voice messages on Plaintiff's cell phone voice mail which failed to provide meaningful disclosure of Defendant's identity;

20. As a result of the above violations of the FDCPA, the Defendant is liable to the Plaintiff for statutory damages, costs and attorney's fees.

**WHEREFORE**, Plaintiff respectfully prays that judgment be entered against the Defendant for the following:

- A. Statutory damages pursuant to 15 U.S.C. § 1692k;
- B. Costs and reasonable attorney's fees pursuant to 15 U.S.C. § 1692k;
- C. For such other and further relief as may be just and proper.

**PLAINTIFF HEREBY REQUESTS A TRIAL BY JURY**

/s/ Ronald C. Illert  
**Ronald C. Illert**

Respectfully submitted,

**THE SWANEY LAW FIRM**

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